

In the Matter of Dolores Cordero,

Supervising Library Assistant

(PM2027D), Jersey City

DOP Docket No. 2004-3100

(Merit System Board, decided June 23, 2004)

Dolores Cordero appeals the determination of the Division of Selection Services which found that she was not permanent in a title to which the promotional examination for Supervising Library Assistant (PM2027D), Jersey City, was open.

The promotional announcement for Supervising Library Assistant indicated that the examination, which was processed as an unassembled examination (E & E) based on a review of the education and experience as listed on the applications, was open to employees in the competitive division who were currently serving in the titles of Principal Library Assistant or Senior Library Assistant and had an aggregate of one year of continuous permanent service as of the April 18, 2003 closing date. Since Jersey City does not use the Supervising Library Assistant, Typing title, the examination was also open to employees in the Principal Library Assistant, Typing and Senior Library Assistant, Typing titles.

The appellant was employed, as of the closing date of the examination, with the Jersey City Free Public Library, in the title of Senior Library Assistant, Bilingual in Spanish and English. Department of Personnel records reflect that she received a permanent appointment to this title, effective November 19, 1989.

On appeal to the Merit System Board, the appellant argues that she should not have been declared ineligible to sit for this subject examination. She contends that the title she presently holds basically performs the same duties, with the exception that it is a bilingual variant. In this regard, she provides a letter from Patricia A. Mantone, the Personnel Officer for the Jersey City Free Public Library supporting her position that she should be admitted to the examination. Essentially, appellant is suggesting that, based on the many years of service and equitable considerations, the announcement should be amended to include her title for purposes of deeming her eligible.

N.J.A.C. 4A:4-2.4(a)1 specifically provides that if a title which is the subject of a promotional examination is part of a title series, then the examination shall be open to the next lower or next two lower in-series titles.

N.J.A.C. 4A:1-1.3 defines “title series” as “titles involving the same kind of work and ranked according to level of difficulty and responsibility.” Thus, the titles of Principal Library Assistant and Senior Library Assistant are correctly considered in-series titles.

N.J.A.C. 4A:4-2.6(a)1 states that applicants for promotional examinations must have one year of continuous permanent service as of the announced closing date in a title or titles to which the examination is open.

N.J.A.C. 4A:1-1.2(c) provides that the Merit System Board may relax a Department of Personnel rule for good cause in a particular circumstance in order to effectuate the purpose of Title 11A, New Jersey Statutes.

For the record, it should be noted that there were 13 applicants for the subject examination out of which one was rejected and 12 deemed eligible for the subject E & E examination. Furthermore, the list of eligibles was certified on April 21, 2003 (Certification #PL030603), and six appointments were effected on June 30, 2003.

CONCLUSION

The record establishes that, as of the closing date of the subject examination, the appellant was not permanent in a title to which the examination was open. The record further establishes that while the variant title Supervising Library Assistant, Typing is not utilized by the City, the variant title Supervising Library Assistant, Bilingual is utilized.

As to the inclusion of variant titles in the promotional announcement, since Jersey City does not utilize the variant title Supervising Library Assistant, Typing, the Principal Library Assistant, Typing and Senior Library Assistants, Typing titles were correctly included in the subject announcement. However, since the variant title Supervising Library Assistant, Bilingual is utilized by the City, appellant’s promotional opportunities are to this title. Thus, the title Senior Library Assistant, Bilingual was not included in the announcement. Appellant would be able to exercise a promotional opportunity in the future if an announcement was issued for this title and it was open to her title. By the same token, a person holding a Senior Library Assistant (without the bilingual variant) title would not be able to avail himself of a promotional opportunity for a Supervising Library Assistant, Bilingual in Spanish and English title because the lower title would not be part of that title series.

However, Department of Personnel records reflect that appellant is the only Senior Library Assistant, Bilingual in Spanish and English, in the Jersey City Free Public Library. In addition, these records reflect that there

are 19 permanently-appointed Senior Library Assistants, one Supervising Library Assistant, Bilingual in Spanish and English, and no Principal Library Assistants in the Jersey City Free Public Library. Thus, although appellant's promotional opportunities would be, under normal circumstances, only to the Supervising Library Assistant, Bilingual in Spanish and English title, there appear to be equitable considerations that militate in favor of having appellant admitted to the examination. In the first place, appellant is the only incumbent in her present title. Moreover, as she correctly indicates, the duties she is performing in her present title are identical to those of a Senior Library Assistant, with the sole exception of the bilingual requirement. As noted above, she will be competing with potentially 19 other Senior Library Assistants for this promotional opportunity.

Aside from considerations of fairness, the admission of appellant to this promotional opportunity would, as a matter of public policy, advance the salutary goal of providing an individual who is undoubtedly qualified for the title under test with the opportunity to compete for this promotional opportunity with other individuals who are holding the Senior Library Assistant title. This result is consistent with and promotes the strongly stated public policies, underlying the Civil Service Act, of selecting, advancing and promoting employees on the basis of their relative, knowledge, skills and abilities and ensuring them equal employment opportunity at all levels of the public service. *See, N.J.S.A. 11A:1-2.a. and d.*

Under these particular circumstances, utilization of *N.J.A.C. 4A:1-1.2(c)* to allow appellant to compete for this promotional opportunity would serve to promote the above-noted laudable goals.

ORDER

Therefore, it is ordered that this appeal be granted and that appellant be admitted to the examination process.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.